



**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Public Records Division

Manza Arthur  
*Supervisor of Records*

July 26, 2024  
**SPR24/1723**

Christine M. Wilda  
Associate Chancellor for Compliance  
University of Massachusetts, Amherst  
340 Whitmore Building  
Amherst, MA 01003

Dear Ms. Wilda:

I have received the petition of Jonathan Gerhardson requesting reconsideration of my June 24, 2024 determination pertaining to a request to the University of Massachusetts, Amherst (University). See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On May 12, 2024, Mr. Gerhardson requested “[a] full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.” Additionally, he specified the following:

By full copy I mean I expect these records will contain:

- [1.] the original request,
- [2.] all communications between the requestor and UMass,
- [3.] internal, inter-departmental, and inter-agency communications relating to the request,
- [4.] all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- [5.] any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

***Previous Appeals***

This request was the subject of previous appeals. See SPR24/1614 Determination of the Supervisor of Records (June 7, 2024) and SPR24/1614 Determination of the Supervisor of Records (June 24, 2024). In my June 24<sup>th</sup> determination, I found that the basis of Mr. Gerhardson’s appeal was unclear. In an email to this office on July 5, 2024, Mr. Gerhardson

requests that I reconsider my previous determination.

### ***The Public Records Law***

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

### ***Reconsideration Request***

In his June 24, 2024 request for reconsideration, Mr. Gerhardson states the following:

I do not think it is proper to ask me to narrow my request based on information the University knows to be faulty and incomplete.

...

It’s UMass’s responsibility to identify responsive records not at their leisure, but within 10 business days of receiving a public records request.

...

[T]he RAO seems to be asking that I narrow the scope of my request to avoid having a fee assessed, but I do not believe the University may assess any fees, as it failed to respond to my original request within 10 business days (950 CMR 32.06 (2) (c)). Even if this were not the case, no good faith estimate of fees has been provided.

Additionally, in his June 24<sup>th</sup> request for reconsideration, Mr. Gerhardson provides the following modification to his request:

As a show of good faith, I am willing to narrow the scope of my request as such: By “all public records requests” I mean those made in writing via the University’s public records portal, or by electronic, first class, or certified mail to any RAO of the University of Massachusetts Amherst, or any electronic mail sent to another employee of the University who then forwarded it to the RAO on behalf of the requestor.

For each public records request, I seek the following:

-the original request,

- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

In light of Mr. Gerhardson's willingness to modify the scope of his request, this office encourages Mr. Gerhardson and the University to continue to communicate directly in order to facilitate providing records more efficiently and affordably. See G. L. c. 66, § 10(b)(vii) (an agency shall suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency to produce the records sought more efficiently and affordably).

### ***Conclusion***

Accordingly, the University is ordered to provide Mr. Gerhardson with a response to the modified June 24<sup>th</sup> request in accordance with the Public Records Law, its Regulations and this order within ten business days. It is preferable to send an electronic copy of the response to this office at [pre@sec.state.ma.us](mailto:pre@sec.state.ma.us). Mr. Gerhardson may appeal the substantive nature of the University's response within ninety days. See 950 C.M.R. 32.08(1).

Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur", written in a cursive style.

Manza Arthur  
Supervisor of Records

cc: Jonathan Gerhardson